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**WAIVER OR MODIFICATION OF REPLACEMENT LAND REQUIREMENTS OF M.G.L. c. 3 § 5A**

**PROJECT:** Proposed Transfer of Land to the Town of Westfield for Conservation, Recreation and Flood Protection Uses  
**MUNICIPALITY:** Westfield  
**EEA FILE NUMBER:** A97\_010\_329  
**PROJECT PROPONENT:** Town of Westfield  
**DATE:** July 31, 2024

Pursuant to M.G.L. c. 3 § 5A, a public entity who is proposing to use for another purpose or otherwise dispose of land or an interest in land subject to Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts (“Article 97”), may request a waiver or modification of the replacement land requirements, provided that:

1. the disposition involves only the transfer of legal control between public entities and does not involve any other change, including, but not limited to, a change allowing the land to be used for another purpose; or
2. the transfer is of land or interest in land that is of insignificant natural resource and recreation value and is less than 2,500 square feet in area and the transfer serves a significant public interest.

This determination constitutes solely as a waiver or modification of the replacement land requirements pursuant to M.G.L. c. 3 § 5A(a)(ii) & M.G.L. c. 3 § 5A(a)(iii) and does not indicate that the Secretary of Energy and Environmental Affairs takes any position on the Project or on whether it complies with the Executive Office of Energy and Environmental Affairs (“EEA”) Article 97 Land Disposition Policy. This determination reflects the independent analysis of EEA for advisory purposes and does not create any right, benefit, or duty, substantive or procedural, enforceable at law or equity by any party in any judicial or administrative matter.

**Project Description:**

The Project is described in pending legislation S.2393 and includes the transfer of 13.23 acres of land currently held by the Massachusetts Department of Conservation and Recreation (DCR) to the City of Westfield division of Parks and Recreation of the Department of Public Works. This land was originally taken by DCR for the construction of a dike along the Westfield River and was held for the purposes of

conservation and recreation. The City of Westfield will hold continue to use the land for conservation, recreation and flood protection, including the construction and maintenance of a levee and a recreational trail.

**Determination:**

Based on the information provided by DCR and an independent analysis conducted by EEA, the proposed project meets the criteria for a waiver of replacement land requirements pursuant to M.G.L. c. 3 § 5A because the project involves only a transfer of legal control between public entities without a change in use or purpose.